

FILED 10 JAN 14 12:20 USDC-ORE

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

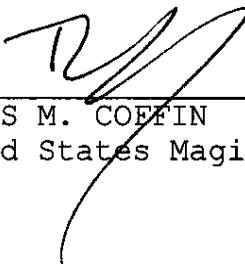
MARK DICKENS, )  
                  )  
                  Plaintiff, ) Civil No. 08-6403-TC  
                  )  
                  v. ) FINDINGS AND  
                  ) RECOMMENDATION  
WELLS FARGO BANK NA, a national )  
bank; THE BANK OF NEW YORK )  
MELLON, a New York state bank; )  
NORTHWEST TRUSTEE SERVICES, INC., )  
a foreign corporation, )  
                  Defendants. )

COFFIN, Magistrate Judge:

After providing numerous extensions, this court issued an order to show cause why defendants' unopposed motion (#40) for summary judgment should not be allowed after plaintiff failed to respond to such motion. Plaintiff was ordered to respond within twenty days and cautioned that a failure to respond would result in the dismissal of this action for failure to prosecute and failure to comply with a court order. Plaintiff has not responded. As such, this action should be dismissed for failure to prosecute, failure to comply with

a court order, and for the reasons stated in the defendant's motion. The five factors for dismissal discussed in Malone v. United States Postal Service, 833 F.2d 128 (9th Cir. 1987) have been weighed and indicate that dismissal is proper.

DATED this 14<sup>th</sup> day of January, 2010.

  
THOMAS M. COFFIN  
United States Magistrate Judge